

REMARKS

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Claims 1-17 are pending in this application. Claim 3 was objected to. Claims 1-17 were rejected.

Claim Objected To

Claim 3 was objected to because of informalities, line 3 "claim 1" should be changed to "claim 2". Applicants have amended claim 3 to correct the informalities.

Double Patenting Rejections

Claims 2-17 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-16 of U.S. Patent 6,317,435. Applicants have amended claims 1, 2, 16, and 17. Additionally, Applicants submit that dependent claims 3-15 are allowable as depending directly or indirectly from an allowable independent claim.

Claims Rejections under 35 U.S.C. § 102(b)

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,317,435 to Hoff (hereinafter "Hoff"). Applicants respectfully disagree for the reasons and explanations set forth below.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (Aug. 2001) (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In addition, "the reference must be enabling and describe the applicant's invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that claim 1 is not anticipated by Hoff for the reasons and explanations set forth below.

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With respect to amended claim 1, Applicants respectfully submit that Hoff does teach or suggest all the limitations of claim 1. In particular, Molnar does not teach or suggest the following element of claim 1: "simultaneously transmitting the previously scheduled traffic streams and the portion of the previously unscheduled traffic stream using full transmission power capacity during the identified portion of the frame".

Hoff discloses a wireless facsimile computer slate. (Title) A radio paging network transmits non-paging data, such as facsimile images to lap top computer receivers by formatting the data into a series of packets and interleaving these packets on a space available basis, into the paging signal. (Abstract) A message transmitting clearinghouse maintains two message queues. One queue is for short paging messages and the other queue is for relatively long screen or facsimile data messages. (Col. 1, lines 60-63) At the beginning of each time period, the short message queue is interrogated and if short messages are waiting, these are formatted for transmission. (Col. 1, lines 63-66). Time slots not filled with paging messages are then made available to carry screen or facsimile data messages. (Col. 1, line 66-Col. 2, line 1) When the interleaving is taking place, messages are formatted and assigned to particular subframes and time slots, as determined by the identifier codes of the intended recipients. After messages from the first queue have been assigned to their respective time slots, the remaining time slots are flagged as free and made available to transmit data from the second queue. The clearinghouse then polls the second queue and splits any screen data therein into portions sized for formatting into packets. These data portions are then formatted and interleaved into vacant time slots in the protocol. (Col. 3, lines 29-35)

Hoff does not disclose all the limitations of amended claim 1 because Hoff does not "simultaneously transmitting the previously scheduled traffic streams and the portion of the previously unscheduled traffic stream using full transmission power capacity during the identified portion of the frame". Hoff explicitly transmits the two data types sequentially. In addition, Hoff makes no mention of power usage during the sequential transmission. Given that Hoff transmits the two data types sequentially, Hoff cannot utilize the full transmission power capacity during a time frame.

Because Hoff does not disclose all the limitations of amended claim 1, Applicants submit that amended claim 1 is not anticipated by Hoff.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants respectfully submit that all pending claims in the present invention are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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